

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DAVID L. EATON)	
Claimant)	
VS.)	
)	Docket Nos. 220,451 & 220,452
ALLEN FREIGHT SERVICES d/b/a)	
P.A.M. TRANSPORTATION)	
Respondent)	
AND)	
)	
GREAT WEST CASUALTY COMPANY)	
Insurance Carrier)	

ORDER

Claimant appealed from a June 25, 1997, Preliminary Decision entered by Administrative Law Judge Robert H. Foerschler.

ISSUES

Whether claimant's principal place of employment is within the State of Kansas.

FINDINGS OF FACT

1. Claimant is an over-the-road truck driver employed by respondent since May 1995.
2. In Docket No. 220,451 claimant alleges injury by accident occurred on April 21, 1996, at or near Jackson, Indiana.
3. In Docket No. 220,452 claimant alleges a series of accidents culminating in April 1996 at various unspecified locations from repetitive use of his right upper extremity to drive a tractor trailer.

4. Claimant has been a resident of the State of Texas at all times relevant to these proceedings.

5. There is no allegation and no evidence that the contract of employment was made within the State of Kansas. Therefore, the Appeals Board finds that it was not.

6. Claimant received his paychecks in the State of Texas.

7. Claimant's work instructions from respondent came from the State of Florida.

8. Claimant picked up some but not all of his loads in the State of Kansas. Claimant's loads originated from over 20 different states. Claimant drove for respondent in 28 states.

9. Claimant did not pick up or return his truck, but rather retained possession of it at all times. Claimant's truck was kept in the State of Texas when not in use. When claimant went back on duty driving, he would leave from the State of Texas.

CONCLUSIONS OF LAW

After reviewing the entire file and considering the briefs of the parties, the Appeals Board finds that the Preliminary Decision denying preliminary benefits should be affirmed.

Claimant has not met his burden of proving Kansas jurisdiction. It has not been established by a preponderance of the credible evidence that claimant's principal place of employment is in the State of Kansas.

The findings and conclusions of the Administrative Law Judge are adopted by the Appeals Board.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Decision entered by Administrative Law Judge Robert H. Foerschler, dated June 25, 1997, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of September 1997.

BOARD MEMBER

c: Leigh Brown Burkhead, Mission, KS
Bill W. Richerson, Kansas City, MO
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director